IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

DATE OF DECISION:29.11.2006

1. LPA NO.132 OF 1997

MAJOR SINGH AND OTHERS ...APPELLANTS

VERSUS

THE KAPURTHALA CENTRAL COOPERATIVE BANK LTD. AND ANOTHER ...RESPONDENTS

2. LPA NO.133 OF 1997

JOGINDER SINGH AND ANOTHER ...APPELLANTS

VERSUS

THE KAPURTHALA CENTRAL COOPERATIVE BANK LTD. ...RESPONDENT

CORAM: HON'BLE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.S.NIJJAR

PRESENT: Mr.Vikas Singh, Advocate
for the appellants

Mr.Ashwani Prashar, Advocate
for the respondent

VIJENDER JAIN, CJ (Oral)

This order will dispose of LPA Nos.132 of 1997 and 133 of 1997, as both the LPAs have arisen out of a common judgment dated 11.12.1996

rendered by the learned Single Judge of this Court.

The learned Single Judge of this Court disposed of CWP Nos.7279 of 1991 and 410 of 1993, by the impugned judgment dated 11.12.1996. The petitioners in the aforesaid two writ petitions had sought directions from this Court to fix their seniority on the basis of their continuous service from the date of their initial appointment with the Kapurthala Central Cooperative Bank Ltd., Kapurthala (hereinafter referred to as "the Bank") and to consider them for promotion with effect from the dates when their juniors were promoted. The petitioners were employed as Junior Clerk-cum-Cashiers in the Bank prior to 2.1.1979. They were again re-employed from 2.1.1979 to 31.3.1979 and again from 1.4.1979 to 28.5.1979. Thereafter, the services of the petitioners were terminated. The petitioners raised an industrial dispute on the ground that the termination of their services was illegal. The dispute was referred to the Labour Court, Jalandhar and the Labour Court by its award dated 4.4.1983 directed the re-instatement of the petitioners with full back wages. A writ petition challenging the said award was dismissed by this Court. Thus the award of the Labour Court attained finality. In consequence of the award of the Labour Court, the petitioners were reinstated in service. Their seniority was, however, fixed with effect from the date of their reinstatement i.e. 16.4.1984. After the termination of the services of the petitioners and before their reinstatement, the Bank employed certain other persons and they were shown senior to the petitioners. It was alleged by the petitioners that some of the juniors had been promoted. The relief claimed by the petitioners was for re-fixation of their seniority from the date of their continuous service alongwith all consequential benefits. Learned Single Judge of this Court

considered the award passed by the Labour Court and also the provisions of Rule 10 (a) (i) of the Punjab Cooperative Financing Institutions Service Rules, 1958. After considering the matter, it was held that the appointment on ad hoc basis shall not count towards seniority. The present appeals have been preferred by the appellants.

Learned counsel for the appellants has contended that other employees who were aggrieved by the same award rendered by the Labour Court, approached this Court for re-fixation of their seniority from the date of their continuous service and another Single Judge of this Court held that the said employees were entitled to continuity of service.

We are afraid that we cannot agree with the submission of the learned counsel for the appellants. Admittedly, in the present case, the appellants were appointed in October, 1978 and their services were terminated in May, 1979. The initial appointment of the appellants was only for a period of 89 days and the same was extended twice after break of one day and the appellants were re-appointed to service by virtue of the award of the Labour Court. A perusal of the award of the Labour Court dated 4.4.1983 shows that the termination of the services of the workmen was illegal and they were entitled to reinstatement with full back-wages. The Bank was directed to take the workmen on duty as and when the award becomes enforceable. There was no direction by the Labour Court with respect to continuity of service from the date of their initial appointment which is the case set up by the appellants. Rule 10 (a) (i) of the Punjab Cooperative Financing Institutions Service Rules, 1958 envisages that the period of service, if any, in regard to the appointment on ad hoc basis shall not count towards seniority. The claim of the appellants for seniority in

view of the aforesaid Rule 10 (a) (i) of the Punjab Cooperative Financing Institutions Service Rules, 1958, therefore, cannot be considered.

In view of the above, we find no merit in both the appeals and the same are dismissed. No costs.

(VIJENDER JAIN)
CHIEF JUSTICE

(S.S.NIJJAR)
JUDGE

29.11.2006
MFK